

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Figueroa Analyst: LuAnna Hass Bill Number: SB 1307  
Related Bills: See Legislative History Telephone: 845-7478 Amended Date: April 14, 2004  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Offsets/Pharmacy Board Fines

### SUMMARY

This bill would, among other things, require the Franchise Tax Board (FTB) to offset tax refunds and lottery winnings of certain taxpayers.

### SUMMARY OF AMENDMENTS

The April 1, 2004, amendments removed language regarding the licensing and registration of manufacturer's and wholesalers that ship and sell dangerous drugs or devices. In addition, the amendments added language that would require FTB, upon notification, to offset tax refunds and lottery winnings of taxpayers that owe fines to the Pharmacy Board.

In addition, The April 1<sup>st</sup> and April 14<sup>th</sup> amendments would amend provisions of the Business and Professions Code relating to the Pharmacy Law. This analysis will not address these provisions, as they do not impact the department.

This is the department's first analysis of this bill.

### PURPOSE OF THE BILL

It appears the purpose of this bill is to regulate dangerous drugs.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2005. The provision relating to the offsets would be operative for notifications made on or after January 1, 2005.

### POSITION

Pending.

### ANALYSIS

#### STATE LAW

Under current state law, the State Controller's Office (SCO) has the authority to offset any debts a person or entity owes the state against any amounts that the state owes the person or entity. SCO, in conjunction with FTB, is required to develop a program for these multiple offsets. The Interagency Intercept Collection program began in 1975, and while this program is under the jurisdiction of SCO, FTB is responsible for the administration of the program. In addition, current law outlines the priority in which FTB must offset PIT tax refunds. Generally, child support and spousal support has offset priority, followed by other offset accounts in the priority determined by SCO.

#### Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

#### Department Director

#### Date

Gerald H. Goldberg

5/5/04

## **PROGRAM BACKGROUND**

In 1975, FTB began the Interagency Intercept Collection program. Through this program, FTB began intercepting the tax refunds of Californians who owe delinquent amounts to state and local agencies. FTB also intercepts California State Lottery prizes for individual offsets. Once intercepted, the refunds and lottery prizes are offset and redirected to the agencies to which the debts are owed.

SCO must first approve all agencies wishing to participate in the program. To participate in the process, the governmental agency responsible for collection of the debt files a request to participate with SCO. Once participation is approved, the governmental agency refers its accounts to FTB by submitting a list of its debtors. Currently, there are approximately 255 state, county, city, and federal agencies participating in the Interagency Intercept Collection program for individual taxpayers and seven state and federal agencies for business entity taxpayers. FTB receives intercept requests for approximately four million taxpayers annually. Any amounts offset by FTB are transferred to the governmental agency that referred the account for offset. That agency deposits the moneys into the fund that is appropriate for the particular debt. The participating governmental agencies are billed annually for their share of the automated program's costs.

For personal income tax (PIT) refunds, a fully automated computer process intercepts the individual's income tax refund and lottery winnings for offset purposes. Generally, for corporation tax refunds, a manual process is used for offset purposes.

## **THIS BILL**

Provisions of this bill would specify to whom pharmacies would be able to furnish dangerous drugs and would specify prohibitions regarding the purchase, trade, sell, or transfer of dangerous drugs. Violations of the provisions of this bill would subject the person or entity to a fine. In addition, this bill would allow the Pharmacy Board to refer final judgments against individuals to the department for purposes of offsetting the fine imposed under a provision of this bill against an individual's income tax refund or lottery winnings.

## **IMPLEMENTATION CONSIDERATIONS**

Since the department already has authority from SCO to implement the refund offset program, and the Pharmacy Board is already a participant in the program, implementing this bill would not significantly impact the department.

## **TECHNICAL CONSIDERATIONS**

Amendments are attached that would resolve the following technical considerations.

Provisions of this bill would subject a "person or entity" to a fine for violation of the provision. These same provisions provide that FTB would offset the amount of the fine against any tax funds or lottery winnings due to the "person," but does not specify those due to an entity. This inconsistency in the language could cause confusion.

In addition, this bill would require FTB, using the authority under the current offset program, to offset refunds and lottery winnings once notified of debts by the Pharmacy Board. This could be interpreted to require FTB to offset debts for the Pharmacy Board prior to the Pharmacy Board gaining approval to enter the offset program. Under current law FTB may only offset amounts once the appropriate agency has applied and been approved by SCO. Therefore, department staff suggests amending the bill to simplify the provisions to reflect current law and practice.

## **LEGISLATIVE HISTORY**

SB 1828 (Ch. 681, Stats. 2000) requires FTB, upon notification by the Attorney General (AG), the Medical Board of California, or the Pharmacy Board of California, to subtract certain fines or civil penalties from tax refunds or lottery winnings of taxpayers.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income or franchise tax revenues.

## **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 1307  
As Amended April 14, 2004

AMENDMENT 1

On page 11, strikeout lines 14 through 23, inclusive, and insert:

(c) Amounts due from a person or entity under this section on or after January 1, 2005, shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

AMENDMENT 2

On page 17, strikeout lines 33 through 39, inclusive, and on page 18, strikeout lines 1 and 2, and insert:

(c) Amounts due from a person or entity under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.

AMENDMENT 3

On page 18, strikeout lines 30 through 38, inclusive, and insert:

(c) Amounts due from a person or entity under this section shall be offset as provided under Section 12419.5 of the Government Code. Amounts received by the board under this section shall be deposited into the Pharmacy Board Contingent Fund.